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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,161	09/09/2003	Jeyhan Karaoguz	14167US02	5714
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MCANDREWS HELD & MALLOY, LTD			RUSSELL, WANDA Z	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/658,161	KARAOGUZ ET AL.
	Examiner Wanda Z. Russell	Art Unit 2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-42 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews (U.S. Patent 5,521,910), in view of Beshai et al. (Pub. No. US 2002/0131363 A1).

For claim 1, Matthews substantially teaches a method (Title) for providing enhanced connectivity (best path, Title) in a multi-band, multi-protocol (col. 16, lines 28-29) network, the method comprising:

aggregating (accumulates, col. 19, line 18-19) messages (values, col. 19, line 18) from a physical layer (611-Fig. 22. Note that Fig. 22 is an illustration of a port object for the switch of Fig. 21, and Fig. 21 is an illustration of the software embodiment of the invention) of each communication band (col. 5, lines 59-61) and each communication channel (all nodes, col. 19, line 19) associated with each of a plurality of protocols (col. 16, lines 28-29) in a single multi-protocol layer of the multi-band, multi-protocol network (Figs. 11A-C, and col. 6, lines 56-57);

identifying (determination, col. 18, line 63) an optimal communication path (best path, col. 18, line 63) from among said communication band and said communication

channel based on said single multi-protocol layer (Figs. 11A-C, and col. 6, lines 56-57);
and

establishing (get path, 224-Fig. 11C) a communication session using said
identified optimal communication path (224-Fig. 11C, and col. 6, lines 56-57).

However, Matthews fails to specifically teach a multi-band network for this
application.

Beshai et al. teach a multi-band network (0051], lines 9-12) for this application.

Therefore, it would have been obvious to a person of ordinary skill in the art at
the time the invention was made to combine Matthews et al. with Beshai et al. to obtain
the invention as specified, for more flexible network applications.

For claim 2, Matthews and Beshai et al. teach everything claimed as applied
above (see claim 1). In addition, Matthews teaches the method according to claim 1,
comprising determining (col. 18, line 63) based on said aggregated messages, whether
at least one of said communication channels, said communication bands, and a
combination of said communication channels and said communication bands provides
said optimal communication path (best path, col. 18, line 63) for said communication
session (col. 4, lines 30-39).

For claim 3, Matthews and Beshai et al. teach everything claimed as applied
above (see claim 1 and 2). In addition, Matthews teaches the method according to claim
2, comprising selecting (pursue, col. 4, line 36) at least one of said communication
channels and communication bands, and a combination of said communication

channels and said communication bands for providing said communication session (col. 4, lines 30-39).

For **claim 4**, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1, 2, and 3). In addition, Matthews teaches the method according to claim 3, comprising locating (ARP from mapping, col. 17, line 13) said single multi-protocol layer (IP, col. 17, line 10) as a sublayer within a data link layer (col. 17, line 14).

For **claim 5**, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1, 2, and 3). In addition, Matthews teaches the method according to claim 3, comprising interfacing (extract, col. 34, line 57) said single multi-protocol layer above a MAC layer (col. 34, lines 57-58), said MAC layer interfaced (col. 10, line 50, and 48-50) with said physical layer that is located below said MAC layer.

For **claim 6**, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1, 2, 3, and 4). In addition, Matthews teaches the method according to claim 4, wherein said single multi-protocol layer is a super channel (best path, Title) sublayer, said super channel sublayer being said sublayer of said data link layer (col. 17, line 14).

For **claim 7**, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1). In addition, Matthews teaches the method according to claim 1, comprising monitoring (check, col. 8, line 8 and 6-10) at least a portion of said aggregated messages in said single multi-protocol layer by at least one of a network management process (col. 3, line 23), a bandwidth management process (col. 1, line 15), a load balancing process (discover neighboring nodes, col. 4, lines 26-30), a

session control process (col. 3, line 59) and a QoS management process (col. 3, line 25). (Also see col. 4, lines 39-46).

For claim 8, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1, and 7). In addition, Matthews teaches the method according to claim 7, comprising interfacing (operate, col. 3, line 23) at least one of said network management process, bandwidth management process, load balancing process, session control process and QoS management process with said super channel (col. 3, lines 16-25, and summary, col. 2, lines 65-col. 6, line 28).

For claim 9, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1, 7, and 8). In addition, Matthews teaches the method according to claim 8, comprising extracting (col. 14, line 66) channel specific data from said single multi-protocol layer by at least one of said network management process, bandwidth management process, load balancing process, session control process and QoS management process (summary, col. 2, lines 65-col. 6, line 28).

For claim 10, Matthews and Beshai et al. teach everything claimed as applied above (see claim 1, 7, 8, and 9). In addition, Matthews teaches the method according to claim 9, comprising sharing (col. 4, line 48) channel information acquired by each of said network management process, bandwidth management process, load balancing process, session control process and QoS management process among one or more of said network management process, bandwidth management process, load balancing process, session control process and QoS management process (summary, col. 2, lines 65-col. 6, line 28).

For claims 11-20, they are machine-readable storage (medium) claims corresponding to method claim 1-10. Therefore they are rejected for the same reason above.

For claims 21-40, they are system claims corresponding to method claim 1-10, Therefore they are rejected for the same reason above.

3. Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voldman et al. (U.S. Patent 7,085,306), in view of Beshai et al. (Pub. No. US 2002/0131363 A1).

For claim 41, Voldman et al. substantially teach a system for providing enhanced connectivity in a multi-band, multi-protocol network, the system comprising:

a physical layer (38-Fig. 2);

a MAC layer above (44-Fig. 2) and interfacing with said physical layer (Fig. 2);

and

multi-protocol layer above (security 46, and PPP 50 -Fig. 2) and interfacing with said MAC layer (Fig. 2, and col. 9, lines 8-16).

However, Voldman et al. fail to specifically teach a multi-band network for this application.

Beshai et al. teach a multi-band network (0051], lines 9-12).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Voldman et al. with Beshai et al. to obtain the invention as specified, for more flexible network applications.

For claim 42, Voldman et al. and Beshai et al. teach everything claimed as applied above (see claim 41). In addition, Voldman et al. teach the system according to claim 41, wherein said multi-protocol layer and said MAC layer are part of a data link layer (Fig. 2).

Response to Amendment

4. Applicant's amendment filed October 3, 2007 has been received and considered.

Response to Arguments

5. Applicant's arguments filed October 3, 2007 have been fully considered and are persuasive for the multi-band issue. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Beshai et al. (Pub. No. US 2002/0131363 A1). See rejection above. For other issues, see reply below.

6. Applicant argues that the reference, Matthews, is not related to a multi-protocol network.

In response, the Examiner respectfully disagrees.

Matthews also teaches in col. 16, lines 28-29 that a different protocol decode logic would be provided for each network protocol.

7. Applicant argues that Matthews does not disclose aggregating message from a physical of each communication band and each communication channel ... into a single multi-protocol layer.

In response, the Examiner respectfully disagrees.

Matthews discloses aggregating (accumulates, col. 19, line 18-19) messages (values, col. 19, line 18) from a physical layer (611-Fig. 22. Note that Fig. 22 is an illustration of a port object for the switch of FIG. 21, and FIG. 21 is an illustration of the software embodiment of the invention) of each communication band (col. 1, line 15). Note that col. 1 is the field of the invention. It describes that the invention is directed to allocating bandwidth by multiple level of arbitration that means multi-band) and each communication channel (all nodes, col. 19, line 19) associated with each of a plurality of protocols (col. 1, lines 13-14. Note that col. 1 is the field of the invention. It describes that the invention is protocol independent that means multi-protocol) in a single multi-protocol layer of the multi-band, multi-protocol network (Figs. 11A-C, and col. 6, lines 56-57). Matthews also discloses other functions as claimed such as identifying an optimal path and establish the path. See rejection above for more details.

8. Applicant argues that Voldman et al. do not teach the limitation of "a multi-protocol layer above, and interfacing with said MAC layer" as recited by the applicant in claim 41.

In response, the Examiner respectfully disagrees.

In col. 9, lines 8-11, Voldman et al. state that "The MAC layer 44 may use a protocol described in IEEE 802. However, other MAC layer protocols could also be used, such MCNS MAC layer protocol, for instance". It is clear that Voldman et al. teach a multi-protocol layer.

9. Applicant argues that Voldman et al. do not teach multi-protocol claimed by applicant in claim 41.

In response, the Examiner respectfully disagrees.

Note that in Fig. 2, Voldman et al. clearly show all the physical layer elements, and link layer elements including MAC, security, and PPP. The security and PPP can be interpreted as "multi-protocol layer" claimed by applicant and they are interfacing with MAC layer.

The examiner also points out that although the claim 41 is independent, it is a system claim associating with other method claims in the invention. In claim 4, applicant clearly states "single multi-protocol layer as a sublayer within a data link layer". This is exactly what depicted in Fig. 2 by Voldman et al.

10. Rejection of dependent claims remains effective.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda Z. Russell whose telephone number is (571) 270-1796. The examiner can normally be reached on Monday-Thursday 9:00-6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WZR

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